

No. 9/2/87-6Lab./2308.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Shankar Textile Mills II/4, Bahalgarh Road, Sonapat :—

BEFORE SHRI B. P. JINDAL, PRESIDING
OFFICER, LABOUR COURT, ROHTAK.

Reference No. 213 of 1985.

between

SHRI JAGDISH PARSHAD, WORKMAN AND
THE MANAGEMENT OF M/S. SHANKAR
TEXTILE MILLS, 41/4, BAHALGARH ROAD,
SONEPAT

Present :—

Shri Bahadur Yadav, A.R., for the workman.

Shri S. S. Aggarwal, A.R., for the manage-
ment.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Jagdish Parshad and the management of M/s Shankar Textile Mills, 41/4, Bahalgarh Road, Sonapat, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 49600—5, dated 18th December, 1985:—

Whether the termination of services of Shri Jagdish Parshad is justified and in order. If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Weaver since 11th October, 1984 on monthly wages of Rs. 470 and that the respondent concern was closed on 2nd November, 1984 without any prior notice to the workforce or without settling the dues of the workers and was re-opened on 18th December, 1984 without giving any prior notice and even then when the petitioner approached

the respondent to allow him to resume his duties, he was not allowed to do so and that in that behalf, a complaint was lodged with the respondent on 4th January, 1985. So, it is alleged that the respondent terminated his services in flagrant disregard of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

3. In the reply filed by the respondent, preliminary objections taken are that since the petitioner of his own started absents from his duties, he is deemed to have abandoned his employment and that the Claim Statement has not been signed by the petitioner or presented by him before the Court and Shri Bahadur Yadav had no authority to do so and that the respondent concern has since been closed from 31st December, 1984 and as such claim for reinstatement is not tenable. On merits, it is alleged that the petitioner was employed as a temporary Weaver but it is denied that he was drawing wages of Rs. 470 P.M. Remaining reply runs on the same lines and as such, I need not suffer repetition.

4. On the pleadings of the parties, following issues were framed on 29th May, 1986:—

(1) Whether the reference is bad in law ?
OPR.

(2) As per terms of reference.

5. In support of his claim the petitioner appeared as WW-1 and examined WW-2 Shri G. S. Thakur, Labour Inspector, Sonapat. The management examined MW-1 Shri Chander Bhan and MW-2 Shri Chiranji Lal, Time Keeper.

6. Learned Authorised Representatives of the parties heard. My findings on the issues framed are as below :—

ISSUE NO. 2 :

7. In the reply filed in the Court, the stand taken by the respondent is that the petitioner abandoned his employment of his own. It is not mentioned as to from which date the petitioner started remaining absent from his duties. In the Court the respondent took a complete somersault when Chander Bhan MW-1 stated that the respondent concern was closed in the month of January, 1985 (in the reply it is alleged that the same was closed on 31st December, 1984) and that the same was closed on account of financial stringencies. There is not a whisper in the statement of Shri Chander

Bhan that the petitioner abandoned his employment of his own. So, the only inference possible is that the allegations made by the petitioner are correct. Even if, it be believed that the respondent concern was closed in the month of December, 1984 or January, 1985 the said closer was illegal under section 25(o) sub-clause (6), because no application for permission for closure of the concern was ever made by the respondent, and if any made, no evidence has been adduced in the Court to prove the same. In such a situation, the closure of the concern was illegal and the petitioner shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down. So, the petitioner is ordered to be reinstated with continuity of service and full back wages.

ISSUE NO. 1 :

8. Since the petitioner was not allowed to resume his duties after the concern opened on 18th December, 1984, there is no question of the reference being bad in law.

9. In the light of my foregoing discussion, the petitioner is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly with no order as to cost.

Dated, the 2nd March, 1987.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 213-85/570, dated 24th March, 1987.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

No. 9/2/87-6Lab./2309.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s.

Shankar Textile Mills, 41/4, Bahalgarh Road, Sonapat :—

BEFORE SHRI B. P. JINDAL, PRESIDING
OFFICER LABOUR COURT, ROHTAK

Reference No. 212 of 85

between

SHRI RAM SUNDER, WORKMAN AND THE
MANAGEMENT OF M/S SHANKAR TEXTILE
MILLS, 41/4, BAHALGARH ROAD, SONEPAT

Present :

Shri Bahadur Yadav, A.R. for the workman.

Shri S. S. Aggarwal, A.R., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Ram Sunder and the management of M/s Shankar Textile Mills, 41/4, Bahalgarh Road, Sonapat, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 49593—98, dated 6th December, 1985 :—

Whether the termination of services of Shri Ram Sunder is justified and in order ? If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Weaver since 15th August, 1982 on monthly wages of Rs. 470 and that the respondent concern was closed on 2nd November, 1984 without any prior notice to the workforce or without settling the dues of the workers and was re-opened on 18th December, 1984 without giving any prior notice and even then, when the petitioner approached the respondent to allow him to resume his duties, he was not allowed to do so and that in that behalf, a complaint was lodged with the respondent on 4th January, 1985. So, it is alleged that the respondent terminated his services in flagrant disregard of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

3. In the reply filed by the respondent, preliminary objections taken are that since the petitioner of his own started absenting from his duties, he is deemed to have abandoned his employment and that the Claim Statement has not been signed by the petitioner or presented by him before the Court and Shri Bahadur Yadav had no authority to do so and that the respondent concern has since been closed from 31st December, 1984 and as such, claim for reinstatement is not tenable. On merits, it is alleged that the petitioner was employed as a temporary Weaver but it is denied that he was drawing wages of Rs. 470 per mensem. Remaining reply runs on the same lines and as such, I need not suffer repetition.

4. On the pleadings of the parties, the following issues were framed on 29th May, 1986:—

(1) Whether the reference is bad in law?
OPR.

(2) As per terms of reference.

5. In support of his claim the petitioner appeared as WW-1 and examined WW-2 Shri G. S. Thakur, Labour Inspector, Sonapat. The management examined MW-1 Shri Chander Bhan and MW-2 Shri Chiranji Lal, Time Keeper.

6. Learned Authorised Representative of the parties heard. My findings on the issues framed are as below :—

Issue No. 2:

7. In the reply filed in the Court, the stand taken by the respondent is that the petitioner abandoned his employment of his own. It is not mentioned as to from which date the petitioner started remaining absent from his duties. In the Court the respondent took a complete somersault when Chander Bhan MW-1 stated that the respondent concern was closed in the month of January, 1985 (in the reply it is alleged that the same was closed on 31st December, 1984) and that the same was closed on account of financial stringencies. There is not a whisper in the statement of Shri Chander Bhan that the petitioner abandoned his employment of his own. So, the only inference possible is that the allegations made by the petitioner are correct. Even if, it be believed that the respondent concern was closed in the month of December, 1984

or January, 1985 the said closure was illegal under section 25(o) sub-clause (6), because no application for permission for closure of the concern was ever made by the respondent, and if any made, no evidence has been adduced in the Court to prove the same. In such a situation, the closure of the concern was illegal and the petitioner shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down. So, the petitioner is ordered to be reinstated with continuity of service and full back wages.

Issue No. 1

8. Since the petitioner was not allowed to resume his duties after the concern opened on 18th December, 1984, there is no question of the reference being bad in law.

9. In the light of my foregoing discussion, the petitioner is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly with no order as to cost.

Dated, the 15th March, 1987.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 212-85/569, dated 24th December, 1987.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

No. 9/2/87-6Lab./2310.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workman and the management of (i) M/s. Haryana State Minor Irrigation Tubewell Corporation, Chandigarh, (ii) Haryana State Minor

Irrigation Tubewell Corporation, Fatehabad (Hissar).

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 135 of 86.

between

SHRI RAN SINGH, WORKMAN AND THE MANAGEMENT OF M/S. (I) HARYANA STATE MINOR IRRIGATION TUBEWELL CORPORATION, CHANDIGARH, (II) HARYANA STATE MINOR IRRIGATION TUBEWELL CORPORATION, FATEHABAD (HISSAR).

Present :

Shri T. C. Gupta, A.R., for the workman.

Shri Mahesh Kumar, A.R., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Ran Singh and the management of M/s. (i) Haryana State Minor Irrigation Tubewell Corporation, Chandigarh, (ii) Haryana State Minor Irrigation Tubewell Corporation, Fatehabad (Hissar), to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 32841-47, dated 8th September, 1986:—

Whether the termination of services of Shri Ran Singh is justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Charge-man on 18th August, 1979 and worked as such up to 31st March, 1983, on which date the respondent chose to terminate his services unlawfully without any prior notice or without complying with the mandatory provisions of section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). *Inter alia*, it is alleged that the petitioner's service record has been blemishless. So, he has prayed for reinstatement with continuity of service and full back wages.

3. In the detailed reply filed by the respondent, it is admitted that the petitioner was engaged in the Tubewell Division No. 4, Fatehabad as a Charge-man from 18th August, 1979 but purely as a work-charged employee and that he was employed for a specific scheme of work and as such, he was not issued any appointment letter and the petitioner remained employed up to 30th April, 1983, up to which date he has been paid his wages. It is denied that services of the petitioner were terminated because he worked up to 30th April, 1983 and a notice was issued to him on 22nd February, 1983 valid for a period of one month, which was never implemented and the petitioner continued to work up to 30th April, 1983, after which date, the petitioner started absenting from his duties of his own and as such, he has lost lien on his job. So, in a nutshell, the case of the respondent is that services of the petitioner were never terminated, who lost lien to his job by remaining absent from his duties without leave or prior intimation.

4. On the pleadings of the parties, the following issue was settled for decision by me on 4th November, 1986:—

1. As per terms of reference.

5. In support of his case the petitioner appeared as WW-1 and the respondent examined WW-1 Shri M. R. Gupta, SDO.

6. Learned Authorised Representatives of the parties heard. My findings on the issue framed are as below:—

7. Contrary to the stand taken by the respondent in the reply filed on merits in Exhibit M-3 in the letter, dated 9th April, 1986 sent by the Executive Engineer to the Labour-cum-Conciliation Officer, Hissar, it is mentioned that services of the petitioner were terminated properly after serving him one month's notice. So, the entire case built up by the respondent in the reply filed and in the statement made by Shri M. R. Gupta, SDO, stands knocked out, because the respondent cannot be allowed to adduce evidence against own document, validity of which cannot be denied by the respondent. It may be possible that the petitioner might have worked up to 30th April, 1983 and it was wrongly alleged by him that he worked up to 31st March, 1983 but that would not go to show that the petitioner of his own abandoned his employment with effect from 1st May, 1983. Had this been the case, the Executive Engineer,

—vide his letter Exhibit M-3 would not have sent his comments to the Labour-cum-Conciliation Officer, Hissar that services of the petitioner were lawfully terminated. The learned Authorised Representative of the respondent tried to wriggle out of this unhappy situation by arguing that complete record was not available to the Executive Engineer concerned who sent his comments to the Labour-cum-Conciliation Officer, Hissar. For this lapse on the part of the Executive Engineer, the petitioner cannot be allowed to suffer. Now, contrary to the assertion made in the reply filed in the Court that the petitioner started remaining absent from his duties from 1st May, 1983, the learned Authorised Representative of the petitioner has drawn my attention to the letter Exhibit W-1, dated 22nd February, 1983 whereby the petitioner was given one month's notice before terminating his services. It is not in dispute that the petitioner's tenure of employment was un-interrupted prior to 30th April, 1963. That would mean that the petitioner had worked for more than 240 days during the last 12 calendar months preceeding the date of termination. His termination could not have been brought about without complying with the mandatory provision of section 25F of the said Act. No compliance was made. So, the order of termination was patently illegal and void *ab initio* and as such, the same is set aside. There is a delay of about three years in raising the demand notice, because the demand notice received alongwith the order of reference is dated 29th March, 1986. This delay remained un-explained. There is not a whisper by the petitioner in the statement made in the Court about this delay in raising the demand notice. For this lapse a cut in back wages would not be unjustified though, the law prescribes no limitation in raising the demand notice under the Industrial Disputes Act, 1947. But the Court has to take into consideration the totality of the circumstances while awarding back wages. So, the petitioner is ordered to be reinstated with continuity of service but 50 per cent wages from 1st May, 1983 to 28th March, 1986 and full back wages from 29th March, 1986 till the date of reinstatement. He shall have all benefits of the intervening period. The reference is answered and returned accordingly with no order as to cost.

B. P. JINDAL,

Dated : 4th March, 1987.

Presiding Officer,
Labour Court, Rohtak,
Camp Court, Hissar.

Endorsement No. 135-86/568, dated 24th March, 1987.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak,
Camp Court, Hissar.

No. 9/2/87-6Lab./2311.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Shankar Textiles Mills, 41/4, Bahalgarh Road, Sonapat.

BEFORE SHRI B. P. JINDAL, PRESIDING
OFFICER, LABOUR COURT, ROHTAK.

Reference No. 211 of 85.

between

SHRI BRIJ LAL, S/O SHRI PURAN DASS.
WORKMAN AND THE MANAGEMENT OF
M/S SHANKER TEXTILE MILLS, 41/4.
BAHALGARH ROAD, SONEPAT.

Present :

Shri Bahadur Yadav, A.R., for the workman.
Shri S. S. Aggarwal, A.R., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Brij Lal and the management of M/s Shankar Textile Mills, 41/4, Bahalgarh Road, Sonapat, to this Court, for adjudication,—vide Haryana Government, Gazette Notification No. 49586—91, dated 6th December, 1985:—

Whether the termination of services of Shri Brij Lal, S/o Shri Puran Dass is justified and in order? If not, to what relief is he entitled?

2. On receipt of the order of reference, notices were issued to the parties. The parties

appeared. The case of the petitioner is that he was employed with the respondent as a Weaver since 1st February, 1982 on monthly wages of Rs. 470 and that the respondent concern was closed on 2nd November, 1984 without any prior notice to the workforce or without settling the dues of the workers and was re-opened on 18th December, 1984 without giving any prior notice and even then when the petitioner approached the respondent to allow him to resume his duties, he was not allowed to do so and that in that behalf, a complaint was lodged with the respondent on 4th January, 1985. So, it is alleged that the respondent terminated his services in flagrant disregard of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

3. In the reply filed by the respondent, preliminary objections taken are that since the petitioner of his own started absents from his duties, he is deemed to have abandoned his employment and that the claim statement has not been signed by the petitioner or presented by him before the Court and Shri Bahadur Yadav had no authority to do so and that the respondent concern has since been closed from 31st December, 1984 and as such claim for reinstatement is not tenable. On merits, it is alleged that the petitioner was employed as a temporary Weaver but it is denied that he was drawing wages of Rs. 470 p.m. Remaining reply runs on the same lines and as such, I need not suffer repetition.

4. On the pleadings of the parties, following issues were framed on 29th May, 1986:—

1. Whether the reference is bad in law ?
OPR.

2. As per terms of reference.

5. In support of his claim the petitioner appeared as WW-1 and examined WW-2 Shri G. S. Thakur, Labour Inspector, Sonapat. The management examined MW-1 Shri Chander Bhan and MW-2 Shri Chiranji Lal, Time Keeper.

6. Learned Authorised Representatives of the parties heard. My findings on the issues framed are as below:—

ISSUE NO. 2 :

7. In the reply filed in the Court, the stand taken by the respondent is that the petitioner abandoned his employment of his own. It is

not mentioned as to from which date the petitioner started remaining absent from his duties. In the Court the respondent took a complete somersault when Chander Bhan MW-1 stated that the respondent concern was closed in the month of January, 1985 (in the reply it is alleged that the same was closed on 31st December, 1984, and that the same was closed on account of financial stringencies. There is not a whisper in the statement of Shri Chander Bhan that the petitioner abandoned his employment of his own. So, the only inference possible is that the allegations made by the petitioner are correct. Even if, it be believed that the respondent concern was closed in the month of December, 1984 of January, 1985 the said closer was illegal under section 25(c), sub-clause (6), because no application for permission for closure of the concern was ever made by the respondent, and if any made, no evidence has been adduced in the Court to prove the same. In such a situation, the closure of the concern was illegal and the petitioner shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down. So, the petitioner is ordered to be reinstated with continuity of service and full back wages.

ISSUE NO. 1 :

8. Since the petitioner was not allowed to resume his duties after the concern opened on 18th December, 1984, there is no question of the reference being bad in law.

9. In the light of my foregoing discussion, the petitioner is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly with no order as to cost.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Dated 2nd March, 1987.

Endorsement No. 211-35/567, dated the 24th March, 1987.

Forwarded, (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.